

### § 4050.3

29 CFR Ch. XL (7-1-01 Edition)

of the definition of “missing participant annuity assumptions.”

[62 FR 60440, Nov. 7, 1997, as amended at 63 FR 29355, May 29, 1998; 63 FR 38306, July 16, 1998; 65 FR 14753, Mar. 17, 2000]

#### § 4050.3 Method of distribution for missing participants.

The plan administrator of a terminating plan must distribute benefits for each missing participant by—

(a) Purchasing from an insurer an irrevocable commitment that satisfies the requirements of § 4041.28(c) or § 4041.50 of this chapter (whichever is applicable); or

(b) Paying the PBGC a designated benefit in accordance with §§ 4050.4 through 4050.6 (subject to the special rules in § 4050.12).

#### § 4050.4 Diligent search.

(a) *Search required.* A diligent search must be made for each missing participant before information about the missing participant or payment is submitted to the PBGC pursuant to § 4050.6.

(b) *Diligence.* A search is a diligent search only if the search —

(1) Begins not more than 6 months before notices of intent to terminate are issued and is carried on in such a manner that if the individual is found, distribution to the individual can reasonably be expected to be made on or before the deemed distribution date;

(2) Includes inquiry of any plan beneficiaries (including alternate payees) of the missing participant whose names and addresses are known to the plan administrator; and

(3) Includes use of a commercial locator service to search for the missing participant (without charge to the missing participant or reduction of the missing participant’s plan benefit).

#### § 4050.5 Designated benefit.

(a) *Amount of designated benefit.* The amount of the designated benefit is the amount determined under paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this section (whichever is applicable) or, if less, the maximum amount that could be provided under the plan to the missing participant in the form of a single sum in accordance with section 415 of the Code.

(1) *Mandatory lump sum.* The designated benefit of a missing participant required under a plan to receive a mandatory lump sum as of the deemed distribution date is the lump sum payment that the plan administrator would have distributed to the missing participant as of the deemed distribution date.

(2) *De minimis lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1) of this section whose benefit is not in pay status as of the deemed distribution date and whose benefit has a *de minimis* actuarial present value (\$5,000 or less) as of the deemed distribution date under the missing participant lump sum assumptions is such value.

(3) *No lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1) or (a)(2) of this section who, as of the deemed distribution date, cannot elect an immediate lump sum under the plan is the actuarial present value of the missing participant’s benefit as of the deemed distribution date under the missing participant annuity assumptions.

(4) *Elective lump sum.* The designated benefit of a missing participant not described in paragraph (a)(1), (a)(2), or (a)(3) of this section is the greater of the amounts determined under the methodologies of paragraph (a)(1) or (a)(3) of this section.

(b) *Assumptions.* When the plan administrator uses the missing participant annuity assumptions or the missing participant lump sum assumptions for purposes of determining the designated benefit under paragraph (a) of this section, the plan administrator must value the most valuable benefit, as determined under paragraph (b)(1) of this section, using the assumptions described in paragraph (b)(2) or (b)(3) of this section (whichever is applicable).

(1) *Most valuable benefit.* For a missing participant whose benefit is in pay status as of the deemed distribution date, the most valuable benefit is the pay status benefit. For a missing participant whose benefit is not in pay status as of the deemed distribution date, the most valuable benefit is the benefit payable at the age on or after the deemed distribution date (beginning with the participant’s earliest